IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM. ARBITRATION PETITION (L) NO. 24746 OF 2026

Seetaram Shiva Shetty … **Petitioner**
V/s.
Sudhir Vasu Shetty & Others … **Respondents**

Mr. Siddhesh s. Bhoe with Mr. Yakshay Chheda, and Mr. Shubham Suryawanshi I/BY ssb Legal & Advisory for the Petitioner.

Mr. Manoj Pandit for the Respondents.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 19, 2026

PRONOUNCED ON : AUGUST 21, 2026

JUDGMENT:

1. The Petitioner has filed the present Petition under Section 9 of the Arbitration and Conciliation Act, 1996. By this Petition, the Petitioner seeks urgent interim reliefs and directions against the Respondents, as more particularly set out in the prayer clauses. The reliefs are sought pending commencement of arbitral proceedings in respect of disputes which have arisen between the Petitioner and the Respondents out of and in connection with the Limited Liability Partnership Agreement dated 11 July 2018 and the business and assets of M/s.

Vrintham Estates LLP.

2. The facts and circumstances which have given rise to the present Petition are stated as follows. In the year 2012, the Petitioner advanced certain amount of money to Respondent No. 1. Respondent No. 1 repaid part of the said amount in different instalments till the year 2018. However, according to the Petitioner, an amount of Rs. 10,00,000/- still remained unpaid. Thereafter, on 11 July 2018, an agreement was executed for incorporation of M/s. Vrintham Estates LLP, whose main business was investment in real estate development. The Petitioner and Respondent No. 2, who is the wife of Respondent No. 1, became the designated partners and agreed to share the profits equally in the ratio of 50% each. On 4 December 2019, the Petitioner and Respondent No. 2 jointly purchased a plot of land at Chikkamagaluru, Karnataka, as nominees of the said LLP. Construction of a luxury villa wellness project on the said plot was thereafter commenced. The Petitioner claims that he played an important role in the conception, development, construction and commissioning of the said villa/property. Construction of the said property was completed in the year 2023 after several delays. In November 2023, two WhatsApp groups were created for facilitating communication regarding the said property, one between the partners and another between the partners and employees.

3. Regalikere Experiences Pvt. Ltd. was incorporated on 14 December 2023 for managing and operating the said property.

The Petitioner and Respondent No. 1 held 50% shareholding each in the said Company. In July 2024, Respondent No. 1 suddenly exited both the WhatsApp groups. According to the Petitioner, thereafter he was gradually kept away from the decision-making process relating to management of the said property. Respondent No. 1 is stated to have instructed the employees of Regalikere Experiences Pvt. Ltd. not to follow the Petitioner's directions or provide him information concerning the operations of the said property. The Petitioner thereafter repeatedly addressed emails to Respondent No. 1 raising his grievances regarding the management and operation of the property and regarding non-payment of Rs. 10,00,000/-. It is the case of the Petitioner that Respondent No. 1 thereafter unilaterally changed the bank account details used for receiving booking amounts and replaced the Company's account with the personal bank account of Respondent No. 2. According to the Petitioner, even as on the date of filing of the Petition, the booking and reservation amounts in respect of the said property were being directed to the personal bank account of Respondent No. 2. During the period from October 2024 to December 2024, meetings of the Board of Regalikere Experiences Pvt. Ltd. were held with a view to arrive at an understanding regarding the respective roles and responsibilities of the persons concerned. According to the Petitioner, despite the understanding arrived at during such meetings, Respondent No. 1 continued to manage and conduct the affairs of the said property unilaterally.

Thereafter, on 25 November 2025, Respondent Nos. 1 and 2 incorporated Respondent No. 3 Company. Respondent Nos. 1 and 2, along with their daughter, were appointed as Directors of Respondent No. 3 Company.

4. It is the case of the Petitioner that Respondent No. 1 created a website of Respondent No. 3 by using images of the said property. Respondent No. 3 thereafter started representing the said property as its own on various online platforms and social media platforms, including hotel and lodging booking websites. Respondent No. 3 started accepting bookings and reservations for stays at the said property. The Petitioner, therefore, issued a legal notice dated 13 July 2026 to Respondent Nos. 1 and 2 raising his grievances concerning the operation and management of the said property. The Petitioner had filed CARBP (L) No. 15443 of 2026 under Section 9 of the Arbitration and Conciliation Act, 1996. The said Petition was listed before this Court on 4 May 2026, when time was granted to the parties to explore the possibility of settlement. Settlement discussions were accordingly held on 5 May 2026. On 6 May 2026, the Petitioner sought certain disclosures from the Respondents for the purpose of ascertaining the loss claimed to have been suffered by him. On 7 May 2026, the Respondents provided certain data claiming it to be disclosure of the information sought by the Petitioner. According to the Petitioner, however, the information so provided could not be verified. The Petition was again listed before this Court on 8 May 2026. The

Court converted the Petition filed under Section 9 into an application under Section 17 of the Arbitration and Conciliation Act, 1996 and appointed a learned Sole Arbitrator for adjudication of the disputes between the parties. The Court granted ad-interim reliefs in terms of prayer clauses (f) and (g).

5. On 2 June 2026, the Petitioner communicated with the learned Sole Arbitrator regarding his appointment. On the same day, the Petitioner addressed letters to the Respondents seeking disclosures in terms of the order dated 8 May 2026. On 6 June 2026, the learned Arbitrator furnished his disclosure under Section 12 of the Act. On 8 June 2026 and 11 June 2026, the parties conveyed their consent to the appointment of the learned Arbitrator, and a preliminary meeting was fixed on 18 June 2026. On 18 June 2026, the Respondents furnished a compilation of data claiming it to be the disclosure sought by the Petitioner, and on the same day, the preliminary meeting was held. On 4 July 2026, the Petitioner, as Claimant, filed his Statement of Claim. On 6 July 2026, the Petitioner requested the learned Arbitrator for an early hearing of the application under Section 17. On 9 July 2026, the learned Arbitrator directed the Petitioner/Claimant to amend the Statement of Claim. However, on 10 July 2026, the learned Sole Arbitrator expressed his inability to continue as the Arbitrator in the disputes between the parties. It is in these circumstances that the present Petition has been filed by the Petitioner.

6. Mr. Siddhesh Bhole, learned Advocate appearing for the Petitioner, invited my attention to Clause 53 of the LLP Agreement and submitted that the said clause is sufficiently wide to cover all the Respondents. He invited my attention to a communication sent by the Petitioner for booking the subject villa for the period from 7 April 2026 to 9 April 2026 in the name of one Mr. Nitin Kulkarni. According to him, in reply to the said booking request, the Respondents provided the details of the individual current account of Respondent No. 2, who is the wife of Respondent No. 1. He submitted that Mr. Nitin Kulkarni, acting as a customer, deposited an amount of Rs.10,000/- as advance towards the agreed tariff of Rs.94,000/-. According to the learned Advocate, this shows that though the business is connected with the partnership, the amounts received from customers are being diverted to the accounts of family members of Respondent No. 1. He invited my attention to paragraph 13 of the Petition, wherein the Petitioner has stated on oath that all amounts received from bookings of the said property are being diverted to the personal bank account of Respondent No. 2, instead of being credited towards the funds of the concerned business. He submitted that, though this Court by its order dated 8 May 2026 appointed an Arbitrator for resolution of disputes between the partners arising out of the LLP Agreement, the learned Arbitrator subsequently expressed his inability to continue with the arbitration by communication dated 10 July 2026. He submitted that, in these circumstances, the interim reliefs sought by the Petitioner cannot now be effectively obtained from the learned Arbitrator. According to him, the Petitioner therefore has no other effective remedy except to approach this Court under Section 9 of the Arbitration and Conciliation Act, 1996. In support of this submission, he relied upon the judgment of the Delhi High Court in *Energo Engineering Projects Ltd. Vs. TRF Ltd., 2016 SCC OnLine Del 6560*. He submitted that mere appointment of an Arbitrator does not take away the power of the Court under Section 9 to grant interim relief, particularly where the remedy available under Section 17 is not efficacious. According to him, since the learned Arbitrator has expressed inability to continue with the arbitration proceedings, the remedy under Section 17 cannot be said to be efficacious. He, therefore, submitted that the interim reliefs prayed for by the Petitioner deserve to be granted.

7. Mr. Bhole then invited my attention to paragraph 29 of the affidavit in reply filed by the Respondents. He submitted that the Respondents have stated in the reply that, since the licence stands in the individual name of Respondent No. 2, the revenue from the home stay activity is required to be deposited in her personal account. He invited my attention to the date of the licence, namely 24 April 2026. According to him, this was subsequent to the notice invoking arbitration issued by the Petitioner on 13 April 2026.

8. Per contra, Mr. Manoj Pandit, learned Advocate appearing for the Respondents, invited my attention to the email dated 13

December 2024. He submitted that, despite making their best efforts to contact the Petitioner, the Respondents were left with no other option but to start the process of liquidation of the companies and to sell their shares to potential purchasers.

9. Mr. Pandit submitted that the present Petition is not maintainable against Respondent Nos. 1, 3 and 4, as the LLP Agreement is only between the Petitioner and Respondent No. 2 in their capacity as partners. According to him, Respondent Nos. 1, 3 and 4 are not signatories to the LLP Agreement. He submitted that, in view of Section 9(3) of the Arbitration and Conciliation Act, the only remedy available to the Petitioner is to approach the learned Arbitrator under Section 17 of the Act. He submitted that the reliefs sought in the present Petition are final in nature. He submitted that the Petitioner was aware about the incorporation of Respondent No. 3 and about the manner in which the said property was being operated even before filing of the present Petition. However, according to him, the Petitioner has not given any proper explanation for the delay in approaching this Court. He submitted that, through the present Petition, the Petitioner is in substance seeking to stop and take over the proprietary business carried on by Respondent No. 2, though the LLP has commenced its operations.

10. According to Mr. Pandit, the Petitioner's rights are confined to the land and to his share in the profits of the partnership business. He submitted that Respondent No. 2 is residing at the property constructed on the jointly owned property of the

Petitioner and the Respondents and is conducting home stay operations from the said property under a licence issued by the Government of Karnataka. According to him, before commencing the said activity, Respondent No. 2 had requested the Petitioner to join the activity. However, the Petitioner declined to do so. Respondent No. 2, therefore, started the activity as her own proprietary business. He submitted that the real dispute between the parties concerns the rights of the parties in relation to the property, its possession and the affairs of the LLP. According to him, the Petitioner cannot claim the reliefs sought in the present Petition without first seeking appropriate relief concerning dissolution of the LLP. He, therefore, submitted that the Petition deserves to be dismissed.

REASONS AND ANALYSIS:

11. I have considered the submissions made by Mr. Siddhesh Bhole, learned Advocate appearing for the Petitioner, and Mr. Manoj Pandit, learned Advocate appearing for the Respondents. I have gone through the LLP Agreement dated 11 July 2018 and, more particularly, Clause 53 thereof. I have considered the material placed before the Court regarding the management of the subject property, the booking communication relied upon by the Petitioner, the correspondence exchanged between the parties, the orders passed in the earlier proceedings under Section 9, the appointment of the learned Sole Arbitrator and his subsequent inability to continue with the arbitration. I have considered the reliefs claimed in the present Petition and the judgments relied upon by the Petitioner.

12. The first question which arises is whether the present Petition under Section 9 of the Arbitration and Conciliation Act, 1996 can be considered even though an Arbitrator was appointed. In my view, the answer to this question is in favour of the Petitioner, though only to a limited extent. It is true that once an Arbitral Tribunal is constituted, normally the party is expected to approach the Tribunal under Section 17. This is because the Arbitral Tribunal has been given similar powers for granting interim protection. The Supreme Court, in *Arcelormittal Nippon Steel (India) Ltd. v. Essar Bulk Terminal Ltd.,* (2022) 1 SCC 712, has in paragraph 64 observed as under:

> "64. With the law as it stands today, the Arbitral Tribunal has the same power to grant interim relief as the Court and the remedy under Section 17 is as efficacious as the remedy under Section 9(1). There is, therefore, no reason why the Court should continue to take up applications for interim relief, once the Arbitral Tribunal is constituted and is in seisin of the dispute between the parties, unless there is some impediment in approaching the Arbitral Tribunal, or the interim relief sought cannot expeditiously be obtained from the Arbitral Tribunal."

13. The important words in the above paragraph are "unless there is some impediment in approaching the Arbitral Tribunal". In the present matter, such impediment does exist. It is not merely an imaginary difficulty. The learned Arbitrator, who was appointed by this Court on 8 May 2026, has, by communication dated 10 July 2026, expressed his inability to continue with the arbitration. Therefore, at present, there is no functioning Arbitral Tribunal before whom the Petitioner can effectively approach for urgent protection under Section 17. The record shows that the Petitioner had approached the learned Arbitrator. On 6 July 2026, the Petitioner requested an early hearing of the application under Section 17. Thereafter, on 10 July 2026, the learned Arbitrator communicated his inability to continue. These dates have some relevance. They show that the Petitioner had not avoided the arbitral remedy and approached this Court. He had gone before the learned Arbitrator and had made an attempt to obtain interim protection.

14. The principle laid down in *Energo Engineering Projects Ltd. v. TRF Ltd., 2016 SCC OnLine Del 6560*, which has been noticed by the Supreme Court, therefore becomes relevant. Paragraph 28 of the said decision reads thus:

> "28. When there is an application for interim relief under Section 9, the Court is required to examine if the applicant has an efficacious remedy under Section 17 of getting immediate interim relief from the Arbitral Tribunal. Once the Court finds that circumstances exist, which may not render the remedy provided under Section 17 of the 1996 Act efficacious, the Court has the discretion to entertain an application for interim relief. Even if an Arbitral Tribunal is non functional for a brief period of time, an application for urgent interim relief has to be entertained by the Court under Section 9 of the 1996 Act."

15. In my view, the above principle applies to the facts of the present case. This does not mean that every party can continue with proceedings under Section 9 only because an Arbitrator was once appointed. Such interpretation would defeat the purpose of Section 17 and make Section 9 an ordinary remedy even after constitution of the Tribunal. However, the facts in the present matter are different. The learned Sole Arbitrator has stated that he is unable to continue with the arbitration. Therefore, for the present period, the remedy under Section 17 is not available in a manner by which immediate protection can be obtained.

16. The Supreme Court has explained this position in paragraph 74 of *Arcelormittal Nippon Steel*, which reads as under:

> "74. Even after enforcement of the 2015 Amendment Act, an application for interim relief may be filed in court under Section 9 of the 1996 Act, before the commencement of arbitration proceedings, during arbitration proceedings or at any time after an award is made, but before such award is enforced in accordance with Section 36 of the 1996 Act. The Court has to examine whether the remedy available to the applicant under Section 17 is efficacious."

17. Further, paragraph 87 of the same judgment states:

> "87. Even after an Arbitral Tribunal is constituted, there may be myriads of reasons why the Arbitral Tribunal may not be an efficacious alternative to Section 9(1). This could even be by reason of temporary unavailability of any one of the arbitrators of an Arbitral Tribunal by reason of illness, travel, etc."

18. If even temporary non-availability of an Arbitrator can, in an appropriate case, make the remedy under Section 17 not efficacious, the position appears still stronger in the present case where the learned Sole Arbitrator has communicated that he is unable to continue with the arbitration. I, therefore, find that the present Petition cannot be rejected only because an Arbitrator was earlier appointed. The objection raised by the Respondents under Section 9(3) cannot be accepted.

19. I now turn to the objection that the Petition is not maintainable against Respondent Nos. 1, 3 and 4 because they are not signatories to the LLP Agreement. Clause 53 of the LLP Agreement provides:

> "53. All Disputes, claims, questions and differences whatsoever between the parties hereto arising out of or in connection with or incidental to or touching this Agreement or the construction or application thereof or any clause or thing herein contained or in respect of any account and duties, responsibilities and obligations of either party hereunder or as to any act or omission of any party or as to any other matter in anyways relating to these presents or the right duties and liabilities of either party under these presents shall as far as it is possible be settled by mutual discussions falling which such differences or disputes shall be referred to and settled by Arbitration to be conducted in accordance with the Indian Arbitration & Conciliation Act 1996 or any statutory modification or re-enactment thereof for the time being in force"

20. The language of Clause 53 is wide so far as disputes between the parties to the Agreement are concerned. It covers disputes arising out of the Agreement or connected with it. It covers duties, responsibilities, acts and omissions of the parties and matters concerning their rights and liabilities. However, only because the subject covered by the arbitration clause is wide, every person having some connection with the property or business does not become a party to the arbitration agreement. Arbitration is based upon consent. A person who has not signed an arbitration agreement cannot be brought into arbitration merely because he has some connection with the transaction. At the same time, the law recognises that, in a proper case, a non-signatory may be treated as a party to an arbitration agreement where his conduct, role and participation show that, in substance, he was part of the same contractual arrangement. The decision relied upon by the Petitioner in *KKH Finvest Pvt. Ltd. v. Ashiesh Shukla and Others,* 2026 SCC OnLine SC 1498, explains this position. In paragraph 19, the Supreme Court observed:

> "19. We may note that, in terms of the law laid down in Cox and Kings Limited (supra), the principle of 'veritable parties' would be applicable in situations where a person or entity may not sign an arbitration agreement, yet give the appearance of being a veritable party to such agreement due to that person/entity's legal relationship with the signatory parties and involvement in the performance of the underlying contract. This Court observed that the participation of a non-signatory in the

> performance of the underlying contract is the most important factor to be considered as the conduct of the non-signatory parties is an indicator of the intention of those parties to be bound by the arbitration agreement."

21. The Supreme Court has indicated that the relationship between signatories and non-signatories, commonality of the subject matter, composite nature of the transaction and participation of the non-signatory in the performance of the underlying contract are relevant considerations.

22. However, the facts of the present case have to be considered separately. In *KKH Finvest*, the non-signatories had obligations under connected agreements which were necessary for completion of the main transaction. The Supreme Court found that there was, in substance, no real distinction between the signatories and persons sought to be referred to arbitration. Paragraph 20 records that the obligations of Ashiesh Shukla under his Share Purchase Agreement were "fundamental to the completion of the obligations spelt out in the MoS" and that without transfer of his shares, the whole transaction would remain incomplete. In the present matter, on the material available, Respondent No. 2 is shown as the partner with the Petitioner under the LLP Agreement. The other Respondents are not shown as signatories to the said Agreement. Respondent No. 1 is stated to be connected with operation of the property and with Regalikere Experiences Private Limited. Respondent No. 3 is stated to be a company subsequently incorporated by Respondent Nos. 1 and 2, with their daughter as directors. These facts and their involvement may be relevant while deciding the actual disputes. But mere involvement in affairs of the property or business may not be enough to conclude that such persons have agreed to be bound by the arbitration clause. I find that the Petitioner has shown a serious dispute concerning management and earnings of the property. However, sufficient material is not available before this Court to finally hold that Respondent Nos. 1, 3 and 4 are parties to the arbitration agreement contained in Clause 53. The decision in *KKH Finvest* does not mean that every connected person becomes a party to the arbitration agreement. Examination of the actual role, obligations and conduct of such non-signatory is necessary.

23. The next objection raised by Mr. Pandit is that the reliefs claimed in the Petition are in the nature of final reliefs. There appears to be some substance in this submission. If Prayer Clause (b) is granted in the manner as prayed, it would control and regulate the manner in which the said property is to be operated and managed. Prayer Clause (c) seeks to stop certain Respondents from interfering with the management and operation of the property. Prayer Clause (d) further seeks to restrain the Respondents from marketing, advertising, listing, promoting, taking bookings, hosting guests, operating or otherwise dealing with the said property through various platforms. Therefore, the nature and effect of these reliefs requires careful consideration.

24. While exercising powers under Section 9, the Court has to keep in mind that the purpose of interim protection is to protect the subject matter of arbitration and preserve the rights of the parties till their disputes are finally decided. Normally, at the interim stage, the Court should not hand over final management or control of the business to one party unless the facts make such course necessary. Therefore, only because the Petitioner has made out an arguable case, it does not mean that every relief claimed by him should be granted in the form as prayed. However, this does not mean that no interim protection can be granted at all. The Court has to find some workable arrangement which can protect the property and the business and, at the same time, prevent either side from taking unfair or undue advantage of the present situation. In the present case, some protection appears necessary because the dispute is not only regarding past amounts. The dispute concerns the present operation of the property and the manner in which amounts received from bookings are being collected and dealt with.

25. For this limited purpose, the communication relating to the booking made in the name of Mr. Nitin Kulkarni assumes relevance. The material placed before the Court shows that for the booking from 07 to 09 April 2026, an advance amount of Rs.10,000/- was required to be paid against the agreed tariff of Rs.94,000/-. The bank account details furnished for receiving the said amount were of the individual current account of Respondent No.2. According to the Petitioner, collection of booking amounts in the personal account of Respondent No.2 is not in accordance with the manner in which the partnership business is required to be carried on. The submission of Mr. Bhole that this material establishes siphoning of partnership money requires to be considered. At this stage, it would not be proper to finally hold that the amounts have been siphoned away. The Court does not have before it the complete books of accounts, complete bank statements, complete booking records or the financial history relating to the property. Therefore, merely on the basis of one booking communication, no final finding can be recorded that the partnership money has in fact been siphoned off. At the same time, the said material cannot be ignored. If a business connected with an LLP is being operated and the amounts received from bookings are being deposited in the individual bank account of one of the partners, the matter may require some protection and transparency till the rights of the parties are finally decided. The matter becomes more serious because the Petitioner has stated on oath in paragraph 13 of the Petition that all amounts received from bookings of the property are being deposited in the personal bank account of Respondent No.2. Whether this allegation is proved or not will have to be decided in the arbitration proceedings. For the present purpose, it is sufficient to observe that the allegation raises a genuine issue for which some interim protection may be necessary.

26. The date of the licence relied upon by Mr. Bhole cannot be ignored. The licence is stated to have been issued on 24 April

2026, whereas the notice invoking arbitration was issued earlier on 13 April 2026. Mr. Bhole submits that this sequence shows that after the dispute had started, the business which was earlier being carried through the partnership was shifted in the individual name of Respondent No.2. I am unable to hold merely on the basis of these two dates that the licence was obtained only for the purpose of diverting the partnership business. There may be other facts and circumstances which are not before the Court. Therefore, no final finding can be recorded merely because the arbitration notice is dated 13 April 2026 and the licence is dated 24 April 2026. However, the sequence of these events does give some reason for maintaining the existing position and for ensuring that there is no further change in the manner in which the property and its revenues are being dealt with until an effective arbitral forum becomes available.

27. I have considered the submission of Mr. Pandit that the Respondents had made efforts to contact the Petitioner and that, according to the email dated 13 December 2024, they were left with no other option but to begin liquidation of the companies and explore the possibility of selling their shares to prospective purchasers. This submission may explain the stand and case put forward by the Respondents. However, it does not answer the present grievance of the Petitioner regarding the present operation of the property and the manner in which booking revenues are being received. The email dated 13 December 2024 is prior to the events which have resulted in filing of the present

Petition. Therefore, the said email cannot be sufficient to deny the Petitioner such interim protection as may otherwise be necessary. The submission that the Petitioner should first seek dissolution of the LLP before asking for any relief cannot be accepted in the manner in which it is urged. At present, the Petitioner is not seeking a final order of dissolution of the LLP or final determination of ownership rights between the parties. His immediate grievance concerns the present manner of operation of the property and collection of revenues. If the subject matter of arbitration requires protection, the Court can grant appropriate interim measures without first deciding the final rights of the parties or requiring dissolution of the LLP. At the same time, there is some substance in the submission of Mr. Pandit that the Court should not, by an interim order, finally transfer the management of the property to the Petitioner. Prayer Clause (b) cannot be granted in its complete form. If every decision concerning management is required to be taken only with the active consent of the Petitioner, such arrangement may give the Petitioner control over the business even before the arbitral disputes are decided. Such relief may go beyond what is required for protecting the subject matter.

28. Prayer Clauses (c) and (d) require careful consideration. If all bookings and operation of the property are stopped, it may result in loss of business and may adversely affect the commercial activity which is required to be protected and preserved. The property cannot be directed to remain closed merely because the parties are having disputes. The more appropriate course appears to be to prevent unilateral dealing with the property and unilateral diversion of its revenues, while permitting the business to continue in a transparent manner until the Arbitral Tribunal is constituted. The material before the Court shows three important aspects. First, there is a prima facie dispute arising out of the LLP Agreement and the business connected with it. Second, there is no functioning Arbitral Tribunal because the learned Arbitrator has expressed his inability to continue. Third, there is a real dispute regarding the management and operation of the property and regarding the account into which the booking revenues are being received. These circumstances, taken together, justify exercise of powers under Section 9.

29. The present case, therefore, appears to come within the exception recognised in *Arcelormittal Nippon Steel (India) Ltd*. The Supreme Court has held that the Court can exercise jurisdiction where "there is some impediment in approaching the Arbitral Tribunal, or the interim relief sought cannot expeditiously be obtained from the Arbitral Tribunal." In the present case, this condition appears to be satisfied. At present, there is no functioning Arbitrator before whom the Petitioner can seek immediate relief under Section 17. I hold that the Petition under Section 9 is maintainable at this stage and the objection based upon Section 9(3) cannot be accepted. I find that the objection raised only on the ground that Respondent

Nos.1, 3 and 4 have not signed the LLP Agreement cannot result in dismissal of the Petition. Their actual role and connection with the business and the transaction are matters which may be considered by the arbitral forum. The principle relating to veritable parties, as explained by the Supreme Court, permits examination of the real involvement of such persons and not merely the fact whether they have formally signed the agreement. However, I am not satisfied that the Petitioner is entitled to all the reliefs in the form in which they are prayed. The Petitioner is entitled to appropriate protection of the subject matter of the disputes and to an arrangement which prevents unilateral diversion or dealing with the revenues and operation of the property. But the Petitioner cannot be granted an order which gives him exclusive control over the business.

30. Accordingly, the interim arrangement has to ensure that the property continues to remain operational. However, no Respondent should create any fresh third-party right in respect of the property or make any change in its operation which may affect the rights claimed by the Petitioner. The booking revenues should not be diverted to any new personal or third-party account in a manner which may prejudice the subject matter of arbitration. All amounts received from the property and expenditure incurred for its operation should, pending further orders, be accounted for. Full particulars of such receipts and expenditure should be maintained and made available so that the same can be examined in the arbitral proceedings. The purpose of this arrangement is not to finally decide who is entitled to the property, who is entitled to its profits or whether any amount has been siphoned off. These are matters which will have to be decided on the basis of proper evidence in the arbitral proceedings. The limited purpose at present is to ensure that, when the arbitral mechanism is not functioning, neither party is able to change the subject matter of the dispute or deal with it in such manner that the eventual arbitral award may become difficult to enforce. The Petitioner should be permitted to receive information relating to the material financial and operational matters concerning the property. The Respondents should not prevent the Petitioner from obtaining ordinary business records, booking statements, revenue details and particulars of expenditure relating to the property. Such information is necessary because, without access to these records, the Petitioner may not be in a proper position to place his claim effectively before the Arbitral Tribunal.

31. In view of the above discussion and findings, the following order is passed:

(i) The Arbitration Petition is partly allowed;

(ii) Pending constitution of the Arbitral Tribunal and for a period of four weeks after the newly constituted Arbitral Tribunal enters upon the reference, or until the Arbitral Tribunal passes appropriate orders under Section 17 of the Arbitration and Conciliation Act, 1996, whichever is earlier, the Respondents shall not create any third-party rights, interest or encumbrance in respect of the property known as Varenya Villa / Regalikere / Galikere situated at Block No. 1, Building / Flat No. 115, Bisagnimutt, Inam Dattathreyapeeta, Chikkamagaluru, Karnataka 577 131;

(iii) The Respondents may continue the day-to-day operation and business activities relating to the said property. However, no Respondent shall unilaterally alter the existing nature and manner of operation of the business or take any decision which may materially affect the subject matter of the arbitral disputes or prejudice the rights claimed by the Petitioner;

(iv) All amounts received towards bookings, accommodation, stay, hospitality services and any other commercial activity relating to the said property shall be accounted for. The Respondents shall maintain complete and separate accounts of all such receipts and expenditure incurred in connection with the operation of the said property;

(v) The Respondents shall furnish to the Petitioner, once in every month, complete particulars of bookings received, amounts collected, cancellations, refunds, expenditure incurred and the net revenue generated from the said property, together with supporting documents as may reasonably be available;

(vi) The Respondents shall not transfer, withdraw, divert or otherwise deal with the amounts received from the operation of the said property in a manner which may make the claims of the Petitioner infructuous or defeat the award which may be passed in the arbitral proceedings;

(vii) The Petitioner shall be entitled to receive copies of the ordinary business records relating to the operation of the said property, including booking records, revenue statements and details of material expenditure, upon making a reasonable request to the Respondents;

(viii) The Respondents shall not prevent the Petitioner from participating in discussions relating to material financial and operational decisions concerning the said property. However, the Petitioner shall not, on the basis of the present order, claim any exclusive right to control or manage the day-to-day business of the said property;

(ix) The above arrangement is purely an interim arrangement and shall continue only until appropriate orders are passed by the newly constituted Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996;

(x) It is clarified that the Arbitral Tribunal, after its constitution, shall be free to consider the application for interim measures and pass such orders as it considers appropriate. The Tribunal shall not be influenced by any prima facie observations made in the present order;

(xi) The Petition is disposed of in the above terms.

(xii) There shall be no order as to costs.

(AMIT BORKAR, J.)